

**Before the
Federal Communications Commission
Washington, D.C. 20554**

**RECEIVED
OCT 15 1998
FCC MAIL ROOM**

)	
In the Matter of)	
)	
Bell Atlantic Telephone Companies,)	CC Docket No. 98-168
Tariff No. 1)	
Transmittal No. 1076,)	
Transmittal No. 1081)	
)	
<u>To the Competitive Pricing Division</u>)	

COMMENTS ON DIRECT CASE ON BEHALF OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

1. Before the Federal Communications Commission (the Commission) is an interstate access tariff filed by Bell Atlantic Telephone Companies (Bell Atlantic) on September 1, 1998 proposing to introduce a new telecommunications service -- Infospeed DSL Service (Infospeed Digital Subscriber Line Service).

2. Bell Atlantic represents various Regional Bell Operating Companies (RBOCs) including Bell Atlantic-Pennsylvania, Inc. (BA-PA), the RBOC providing telephone service in the Commonwealth of Pennsylvania. Thus, Bell Atlantic's new offering, if approved, would become effective in the Commonwealth of Pennsylvania.

3. Bell Atlantic asserts that its Infospeed DSL Service offering is an interstate data special access service that will provide high speed access connection between an end-user subscriber and an Internet Service Provider (ISP) by utilizing a combination of the subscriber's existing local exchange physical plant, a specialized DSL-equipped wire

center, and transport to the network interface where the ISP will connect to Bell Atlantic's network.

4. Bell Atlantic contends that Internet traffic is primarily interstate in nature because ISP providers connect end users to information both local and worldwide. Consequently, Bell Atlantic asserts that its Infospeed DSL Service is appropriately filed as an "interstate access service" tariff because Commission and court precedents have indicated that it is the nature of end-to-end communication itself rather than "the physical location of the technology that determines the jurisdictional classification."

5. Bell Atlantic further noted that section 69.2(b) of the Commission's rules defines access service as "includ[ing] services and facilities provided for the origination or termination of any interstate or foreign telecommunications" and explains that its InfoSpeed DSL offering should be properly designated as an "interstate access tariff" because the calls to ISP providers that Bell Atlantic's Infospeed DSL service will be handling "are part of one continuous path originating at the end user's site and terminating at the Internet servers accessed."

6. Approval of Bell Atlantic's purported "interstate access tariff" filing by the Commission could have an adverse impact on consumers in Pennsylvania by increasing the current rates charged by Bell Atlantic for ISP traffic.

7. Commission policy has held this type of traffic (ISP calls) exempt from interstate access charges and subject to local service charges which currently fall under the jurisdiction of the various states.

8. The Pennsylvania Public Utility Commission (the PaPUC) has not made a generic determination as to whether ISP calls should be designated as “local” and thus properly tariffed at the state level or “interstate” and properly tariffed at the federal level.

9. The PaPUC is currently involved in a generic proceeding, in which BA-PA is a party, at P-00981404 where the PaPUC is investigating whether Internet calls are properly classified as either “local” or “interstate.” Currently, that investigation is scheduled to be completed by the end of the year.

10. The PaPUC asks that any Commission determination regarding the jurisdictional classification of Bell Atlantic’s tariff should be made with a view to sustaining any determination the PaPUC may make in Pennsylvania’s own generic proceeding which should be concluded before the date of any FCC decision on this tariff.

11. The PaPUC asks this because, by seeking Commission approval for the instant tariff filing, Bell Atlantic could conceivably be attempting to preempt the PaPUC’s determination of whether Internet calls are “local” or “interstate.”

12. Moreover, by allowing this tariff to go into effect, the FCC could be inadvertently encouraging “forum-shopping” as a way to preempt a state’s efforts to resolve matters of local concern such as the policy treatment of Internet calls.

CONCLUSION

13. For the foregoing reasons, the PaPUC respectfully requests that any Commission determination regarding the jurisdictional classification of ISP calls expressly sustain any determination made by the PaPUC prior to the Commission’s

decision so as to preserve the integrity of the PaPUC's investigation of Internet calls and the Commonwealth of Pennsylvania's treatment of those calls.

14. The PaPUC's current proceeding investigating Internet calls at Docket No. P-00981404 is scheduled for completion by December 31, 1998. Thus, in the alternative, the PaPUC respectfully requests that if a determination must be made by the Commission in the instant matter before January 1, 1999, that the Commission reject Bell Atlantic's tariff filing, Transmittal No. 1076.

Respectfully submitted,



David E. Screven
Assistant Counsel

Frank B. Wilmarth
Deputy Chief Counsel

Bohdan R. Pankiw
Chief Counsel

Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 783-5000

DATED: October 14, 1998

**Before the
Federal Communications Commission
Washington, D.C. 20554**

<hr/>)	
In the Matter of)	
)	
Bell Atlantic Telephone Companies,)	CC Docket No. 98-168
F.C.C. Tariff No. 1)	
Transmittal No. 1076,)	
Transmittal No. 1081)	
)	
<u>To the Competitive Pricing Division</u>)	

CERTIFICATE OF SERVICE

I, David E. Screven, hereby certify that I have on this 14th day of October 1998 served a true and correct copy of the Comment on the Direct Case on behalf of the Pennsylvania Public Utility Commission (PaPUC) upon the persons and in the manner indicated below:

October 14, 1998 by Federal Express:


Magalie R. Salas, Secretary
Office of the Secretary
FCC
1919 M Street NW
Washington, D.C. 20554

October 14, 1998 by First Class Mail:

Competitive Pricing Division
Common Carrier Bureau
Room 518
1919 M Street, N.W.
Washington, D.C. 20554

Joseph J. Mulieri, Director
FCC Relations
Bell Atlantic Telephone Companies
1300 I Street, N.W. -- Suite 400W
Washington, D.C. 20005

ITS, Inc.
1231 20th Street
Washington, D.C. 20036



David E. Screven
Assistant Counsel